

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**Building Code Appeals Board  
Docket No. 08-536**

<hr/> <b>Kenneth Jodrie, as agent for the</b>	)	
<b>Town of Stockbridge,</b>	)	
<b>Appellant;</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>Town of Stockbridge,</b>	)	
<b>Appellee.</b>	)	
<hr/>	)	

**BOARD'S RULING ON APPEAL**

**Procedural History**

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant has requested that the Board review Appellee's decision to deny the Appellant's application for an occupancy permit for the building at 50 Main Street, Stockbridge, to be used as a town hall and offices for the Town of Stockbridge.

By letter dated January 9, 2008, Ned Baldwin, Building Commission for the Town of Stockbridge, ("Stockbridge"), informed Appellant that the town water supply was inadequate for the automatic fire suppression system and standpipes required by 780 CMR §§904.2 and 914.2 which are installed in the building to function adequately and reliably and denied the application for an occupancy permit.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR 1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on February 26, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and testifying at the hearing were Tom Harrington, Town Council for the Town of Stockbridge, Kenneth Jodrie of Caolo & Bieniek Associates, Dave Demers of Demers and Associates, Louis Peyron, Fire Chief of the Town of Stockbridge, and Ned Baldwin, Building Inspector for the Town of Stockbridge.

### **Exhibits in Evidence**

- Exhibit 1: State Building Code Appeals Board Appeal Application Form, dated January 17, 2008 including supporting materials.
- Exhibit 2: Letter from Demers and Associates, Fire Protection Consultants headed "Stockbridge Town Office 50 Main Street" listing issues regarding the fire suppression system water supply.

### **Findings of Fact**

Based on the credited testimony of the witnesses and the exhibits, the Board finds these facts:

1. The building is an existing structure which was modified from use as an elementary school with over 300 students to municipal offices and a former gymnasium space which may be used as a town hall. Normal daily occupancy is estimated to be around 150. The intended uses are business (B) and potential assembly (A) occupancies. The building will be heated by geothermal power, an ignition- and fuel free heating source.
2. An automatic fire suppression sprinkler system has been installed as a part of the renovations. A 750 GPM fire pump supplied with emergency power has also been installed.
3. The town water supply to the building is inadequate to meet the potential full demand from the standpipes and sprinkler system in a fire and to test the fire pump at 150% of capacity. According to Dave Demers, a fire protection consultant, the potential deficiency to the sprinkler operation would be limited to the attic.
4. The Stockbridge Fire Department has mutual aid agreements with surrounding town fire department, and 5000 gallons stored in fire engines at the station nearest the building. Water could be pumped for firefighting use by fire engines from a river approximately 1500 feet away.
5. The Town Meeting voted on February 11, 2008 to replace and upgrade the water mains supplying the building to provide adequate water supply. The estimated completion date of the water main project is late spring 2009.
6. The Appellee, including the Building Inspector and the Fire Chief, supports the granting of the variance.

## Decision

Pursuant to M.G.L. c. 143, § 100, the Board has the authority to decide appeals by those “aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code.”

The issue is whether the Appellant should be granted a variance from the provisions of 780 CMR §§904.2 and 914.2 to allow occupancy of the building without certification of the automatic fire suppression system and standpipe operation. For the following reasons, the Board **ALLOWS** the appeal.

The Board noted that the Appellee, including the Fire Chief, supported the variance on the ground that even without a fully adequate water supply, the fire suppression system was an improvement over the building’s previous fire protection, that there was adequate contingency planning for a fire, and that the variance would be temporary.

The Chair entertained a motion to grant the variance from the provisions of 780 CMR §§904.2 and 914.2 to allow a temporary occupancy permit for the building without certification of the automatic fire suppression system and standpipe operation until September 2009, at which time the upgrade to town water main supplying to the building should be finished. The Board voted as indicated below.

**X.....Granted with conditions** the temporary occupancy permit is granted until September 2009 at which time the fire suppression system must certified by a registered engineer for a permanent occupancy permit to be issued.

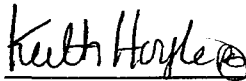
The vote was:

**X.....Unanimous**

..... Majority



Robert Anderson



Keith Hoyle




Sandy MacLeod

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June 19, 2008

  
Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

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